

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DEAN PAUL STEPHENS,

Plaintiff,

v.

COUNTY OF MARIN; MIKE
SMITH; MIKE McCABE; ANN
CHESTNUT; RICHARD GALLEGGO,

Defendants.

No. C 14-4535 WHA (PR)

C 14-4604 WHA (PR)

ORDER OF DISMISSAL

(Dkt. No. 4, 7)

Plaintiff has filed two civil rights complaints against the same officials of Marin County Jail under 42 U.S.C. 1983. The complaints repeat claims plaintiff has made in prior cases in this court. He claims that over 25 years ago defendants removed his testicles, the back of his head, his vertebrae and femurs, made a hole in his groin and closed his rectum. Plaintiff made the same claims in *Stephens v. Prandi, et al.*, No. C 11-4887 WHA (PR), and *Stephens v. Smith, et al.*, No. C 12-2810 WHA (PR). Those complaints were dismissed because the claims are based on factual contentions that are clearly impossible, baseless, fantastic or delusional, and as such are frivolous. *See Denton v. Hernandez*, 504 U.S. 25, 32 (1992) (citing Section 1915(e)); *Neitzke v. Williams*, 490 U.S. 319, 328 (1989). Furthermore, even if some portion of the factual allegations could possibly be true, it was noted that the statute of limitations for plaintiff's claims – at most four years from discovery of the factual predicate of the claim – had run. *See*

1 Cal. Civ. Proc. Code 335.1 (allowing two years), 352.1(a) (allowing up to two years of tolling
2 for incarceration).

3 The instant complaints are **DISMISSED** for the same reasons, and also because they
4 duplicate the claims that plaintiff brought in his prior cases. *See Bailey v. Johnson*, 846 F.2d
5 1019, 1021 (5th Cir. 1988) (an in forma pauperis complaint repeating the same factual
6 allegations asserted in an earlier case is subject to dismissal as duplicative); *see also Cato v.*
7 *United States*, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995) (dismissing duplicative complaint).

8 Plaintiff's applications to proceed in forma pauperis are **GRANTED** in light of his lack
9 of funds. As plaintiff was not a prisoner when these cases were filed, the provisions of 28
10 U.S.C. 1915(b) requiring initial and installment payments of the filing fee do not apply.

11 The clerk shall enter judgment in each of these cases and close the files. Docket number
12 4 in Case No. C 14-4535 WHA and docket number 7 in Case No. C 14-4604 WHA are
13 terminated.

14 **IT IS SO ORDERED.**

15
16 Dated: December 17, 2014.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE